

# SUPREME COURT OF ARKANSAS

No. 08-910

EDWARD WILLIAM DOSS,

APPELLANT,

VS.

STATE OF ARKANSAS

APPELLEE,

**Opinion Delivered** September 11, 2008

MOTION FOR BELATED APPEAL

GRANTED.

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## PER CURIAM

Appellant Edward William Doss, by and through his attorney, Dana A. Reece, has filed a motion for belated appeal.

This court clarified its treatment of motions for rule on clerk and motions for belated appeals in *McDonald v. State*, 356 Ark. 106, 146 S.W.3d 883 (2004). There we said that there are only two possible reasons for an appeal not being timely perfected: either the party or attorney filing the appeal is at fault, or there is “good reason.” *McDonald v. State*, 356 Ark. at 116, 146 S.W.3d at 891. We explained:

Where an appeal is not timely perfected, either the party or attorney filing the appeal is at fault, or there is good reason that the appeal was not timely perfected. The party or attorney filing the appeal is therefore faced with two options. First, where the party or attorney filing the appeal is at fault, fault should be admitted by affidavit filed with the motion or in the motion itself. There is no advantage in declining to admit fault where fault exists. Second, where the party or attorney believes that there is good reason the appeal was not perfected, the case for good reason can be made in the motion, and this court will decide whether good reason is present.

*Id.* (footnote omitted). This court no longer requires an affidavit admitting fault before we will

consider the motion. However, it is plain from Appellant's motion that there was error on Ms. Reece's part, and she accepts responsibility for her mistake. The deadline to appeal the writ of habeas corpus in this case was October 4, 2007. On October 1, 2007, Ms. Reece mistakenly faxed a notice of appeal with the wrong case number to the Hot Spring County Circuit Clerk. Ms. Reece did not realize her error until December 18, 2007, when she called the Hot Spring County Circuit Clerk's office to check on the record.

Mr. Doss has advised Ms. Reece that he still wants to pursue his appeal. Accordingly, we grant Appellant's motion to file a belated appeal. A copy of this opinion will be forwarded to the Professional Conduct Committee.

Motion granted.